NAVAL WAR COLLEGE
Newport, R.I.

"KILL ALL THE LAWYERS!": HOW TO EFFECTIVELY COMMUNICATE THE FUNDAMENTALS OF INTERNATIONAL LAW TO OPERATORS

by

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature: 

14 June 1996

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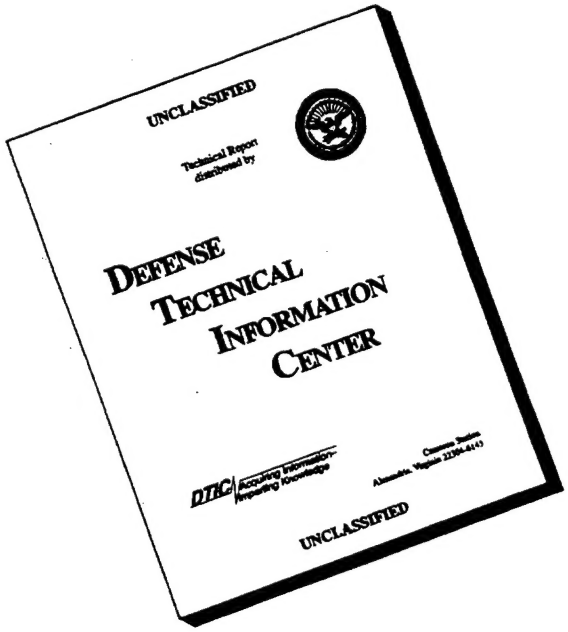

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Security Classification This Page

REPORT DOCUMENTATION PAGE

1. **Report Security Classification:** UNCLASSIFIED	
2. **Security Classification Authority:**	
3. **Declassification/Downgrading Schedule:**	
4. **Distribution/Availability of Report:** DISTRIBUTION STATEMENT A: APPROVED FOR PUBLIC RELEASE; DISTRIBUTION IS UNLIMITED.	
5. **Name of Performing Organization:** JOINT MILITARY OPERATIONS DEPARTMENT	
6. **Office Symbol:** C	7. **Address:** NAVAL WAR COLLEGE 686 CUSHING ROAD NEWPORT, RI 02841-1207
8. **Title** (Include Security Classification): KILL ALL THE LAWYERS!: HOW TO EFFECTIVELY COMMUNICATE THE FUNDAMENTALS OF INTERNATIONAL LAW TO OPERATORS (U)	
9. **Personal Authors:** LCDR VICTOR E. BERNSON, JR., JAGC, USN	
10. **Type of Report:** FINAL	11. **Date of Report:** 12 FEB 96
12. **Page Count:** 25	
13. **Supplementary Notation:** A paper submitted to the Faculty of the NWC in partial satisfaction of the requirements of the JMO Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.	
14. **Ten key words that relate to your paper:** INTERNATIONAL LAW, COMMUNICATE, FUNDAMENTALS, OPERATORS, CONCEPTS, CONFLICT, ROE	

15. **Abstract:**

Lack of knowledge of international law among many mid-level officers has become a serious operational readiness issue. Unfortunately, it appears that many of these officers do not know, and do not care, about the fundamentals of law and how it impacts upon their everyday activities, including how they plan and execute military operations. To remedy this unacceptable situation, a four-part method is proposed to facilitate teaching of the subject by both lawyers and legal officers. Specific sections address: why international law matters; basic concepts of the law of armed conflict; rules of engagement; and a brief overview of the law of the sea, including the freedom of navigation program. While this method should satisfy the present need for a better approach to communicate this highly important subject, in the future the Joint Staff should consider producing a new Joint Pub which highlights the fundamentals of international law which every operator absolutely needs to know. Absent knowledge of these fundamentals of int'l law, operational leaders today and tommorow will be susceptible to mistakes which might lower U.S. prestige at home.

16. **Distribution / Availability of Abstract:**	**Unclassified**	**Same As Rpt**	**DTIC Users**
	X		

17. **Abstract Security Classification:** UNCLASSIFIED	
18. **Name of Responsible Individual:** CHAIRMAN, JOINT MILITARY OPERATIONS DEPARTMENT	
19. **Telephone:** 841-[redacted]6461	20. **Office Symbol:** C

Security Classification of This Page Unclassified

ABSTRACT

Lack of knowledge of international law among many mid-level officers has become a serious operational readiness issue. Unfortunately, it appears that many of these officers do not know, and do not care, about the fundamentals of law and how it impacts upon their everyday activities, including how they plan and execute military operations. To remedy this unacceptable situation, a four-part method is proposed to facilitate teaching of the subject by both lawyers and legal officers. Specific sections address: why international law matters; basic concepts of the law of armed conflict; rules of engagement; and a brief overview of the law of the sea, including the freedom of navigation program. While this method should satisfy the present need for a better approach to communicate this highly important subject, in the future the Joint Staff should consider producing a new Joint Pub which highlights the fundamentals of international law which every operator absolutely needs to know. Absent knowledge of these fundamentals of international law, operational leaders today and tomorrow will be susceptible to mistakes which might lower U.S. prestige at home and abroad, and may result in the unnecessary loss of human life.

As the title of this paper suggests, there are many in the U.S. military who ardently believe that Shakespeare had the perfect solution to every legal problem.[1] Naturally, I do not entirely agree with this perspective, since I am a lawyer. All the same, I do understand some of the reasons behind the basic frustration. Throughout our military, many lawyers have poor reputations because of their inability to effectively communicate why they do the things they do. Such ineffective communication has led to what I believe is yet another serious operational readiness problem for our military. Here I am not referring to the now common grumbling about issues of funding, deployment schedules, or the impact of Military Operations Other Than War (MOOTW) upon our ability to train for fundamental warfare tasks. The problem I wish to discuss involves a largely unrecognized deficiency in training - many of our mid-level officers simply do not understand, or worse yet, could care less about, international law and its component subjects which profoundly affect the conduct of their military service; **the law of armed conflict** and **the law of the sea.**

Allow me to provide a vivid illustration of this point. Back in 1991, I was conducting a simple, one hour training session designed to provide an overview of the law of armed conflict to some Navy Seals who happened to be assigned near me

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[1]The full text of the quote is actually, "The first thing we do, let's kill all the lawyers," from Shakespeare's *King Henry VI*, Pt.IV, ii, 86.

at Subic Bay in the Philippines. About 25 minutes into my presentation, just as I thought I was cruising along in my explanation of the important theoretical concepts of necessity and proportionality, the XO of that command raised his hand from the back of the room and interrupted me as follows, "Nothing personal, Lieutenant, but this is all bulls..t. We're the only country that adheres to this crap. Why should I put my guys in jeopardy by making them sweat about pulling the trigger, when the other side always seems to be playing by an entirely different set of rules?" Good question! I remember at the time I was pretty stumped about how to answer. The response I eventually came up with probably sounded like a bunch of lawyer mumbo-jumbo. In fact, odds are that everyone left the room believing that the XO was right. Well, he wasn't.

Our mid-level officers, particularly those responsible for drafting and executing operational plans (for the sake of simplicity I will hereinafter refer to these officers as "operators"), must know the basics of international law not only because it does affect their daily duties, but because they have sworn to support and defend the United States Constitution, which explicitly incorporates international law as part of the "supreme law of the land."[2] Regrettably, some lawyers instruct this subject as if they were engineers giving a dissertation on Newtonian physics. Obviously, such a method does not work. While lawyers are undoubtedly necessary to find solutions to

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[2]U.S. Const. art.I., sec.8, cl.10; see also U.S. Const. art.6.

complex legal problems, fundamentals of the law can and should be taught by collateral duty legal officers as well. What I mean to say is that *the law is too important to be left to lawyers.*[3]

It is with this basic approach in mind, then, that I have designed a practical, four step method to communicate fundamental principles of international law to operators. Whether taught by lawyers or legal officers, the most these four steps demand of the instructor is a comfortable understanding of the fundamentals discussed in this paper, familiarity with the history of warfare, and a healthy imagination. While each of the services already has comprehensive international law manuals,[4] it is my concern that these manuals are more relevant to lawyers than to everyday operators. Perhaps it is time the Joint Staff considers producing a new Joint Pub highlighting only those fundamentals of international law that every operator absolutely needs to know. In the interim, my goal is to ensure that instructors make the subject of international law more interesting so that operators today and tomorrow understand the importance and relevance of international law to their everyday duties.

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[3]cf., Mark S. Martins, "Rules of Engagement for Land Forces: A Matter of Training, not Lawyering," *Military Law Review*, Vol.143, Winter 1994, 4.

[4]For the **Air Force**, see Department of the Air Force, *Commander's Handbook on the Law of Armed Conflict*. Air Force Pamphlet 110-34. (Washington, D.C.: July 1980); see also Department of the Air Force, *International Law - The Conduct of Armed Conflict and Air Operations*. Air Force Pamphlet 110-31. (Washington, D.C.: November 1976). For the **Army**, see Department of the Army, Field Manual 27-10, *The Law of Land Warfare*. (Washington, D.C.: July 1956); see also Department of the Army, *International Law: Volume II*. Army Pamphlet 27-161-2. (Washington, D.C.: October 1962). For the **Navy** and **Marine Corps**, see Department of the Navy, *The Commander's Handbook on the Law of Naval Operations*, NWP 1-14M (formerly called NWP 9)/FMFM 1-10/COMDTPUB P5800.7, Final Draft, (Washington, D.C.: May 1995).

STEP #1: ANSWER THE MOST BASIC QUESTION: "WHY DOES ANY OF THIS MATTER TO ME?"

To communicate with an audience of operators, it is necessary to start by establishing basic credibility. Of course, this is easier said than done. The simple truth of the matter is that most operators, in fact most Americans nowadays, do not like lawyers. At the same time, most operators are highly skeptical of any matter that smacks of "pie-in-the-sky" internationalism. Just witness the intense discomfort of our professional military with MOOTW, particularly operations involving the United Nations. Since the subject of international law by definition involves both lawyers and internationalism, it should be readily apparent that most instructors of this subject are stepping up to the plate with two strikes already against them. An instructor must therefore anticipate that his audience may very well be overtly hostile or entirely indifferent to the basic message that international law matters.

How is it possible to overcome the very real obstacles of hostility and indifference? Immediately set out to answer the most basic question in the mind of most operators, "Why does any of this matter to me?" Right from the beginning, operators need to have the following axiom drummed into their heads:

> **International law matters a great deal because of who we are and what we stand for. In the same way as domestic law, it helps us distinguish between right and wrong.**

This is a time to get on a soapbox. Explain that even before we are Americans, we are human beings. We never fight for fun, we fight only because we have to, generally as a matter of last resort. In those times when we <u>are</u> forced to fight, *we never purposely set out to kill people who do not need to be killed as a result of the military mission.* For example, we always try to protect innocent women and children, as much as we can. Why? Because the human being inside each and every one of us refuses to allow us to behave differently. At the same time, acknowledging that we are Americans, we hold ourselves to appropriately high standards. We are all aware that our country demands of us that we fight for nothing less than noble causes. At the Marne, at Iwo Jima, at the Chosin Reservoir, at Khe Sanh, at Kuwait City, and even now in Haiti and Bosnia, the American military has always been and will always be a force battling for truth, justice, and freedom from oppression. As for our adversaries, obviously they often hold themselves to a lesser standard, or no standard at all. The key point to get across to our operators, however, is that <u>our standards are what matter</u>. Answer the overtly hostile skeptic - that same Navy Seal XO I referred to earlier - by noting that how the other side conducts itself should never affect how we conduct ourselves. If we lower our standards, we lose our identity and our purpose. Just ask any 19-year-old Marine and he or she will let you know how much we value our own standards.

Obviously, this introduction to the subject of international law requires more than a small amount of preaching. Rightfully so. When the issue is separating right from wrong, the discussion of ethics and morals will normally be pretty thick. What instructors need to convey to operators is that not only is following international law the right thing to do - it will also help them continue to like what they see when they look into a mirror. At the same time, it helps the world see us as the ones who wear the "white hats." Once operators manage to see this perspective, I am quite confident that they will begin to care about the fundamental principles which follow.

STEP #2: REVIEW BASIC CONCEPTS OF THE LAW OF ARMED CONFLICT WHICH EVERY OPERATOR ABSOLUTELY NEEDS TO KNOW

Assuming the members of the audience are at least partially interested in what the instructor now has to say, it is imperative not to lose their attention by rushing to discuss what many of them believe is arcane babble. In short, do not waste time reciting mostly boring topics such as: the historical development of international law; the sources of international law; or the structure and substance of each article of the United Nations Charter. Choose a topic that operators can relate to. In my opinion, the best way to make this subject interesting to operators is to discuss <u>real events</u>.

Invariably, operators want to know more about such recent incidents as the shootdown of the Iran Air Airbus, Flight 655, by the USS *Vincennes* on 3 July 1988;[5] the attack by the USS *Nicholas* against an oil platform in the Arabian Gulf occupied by Iraqi soldiers, at least one of which indicated a clear desire to surrender, on 18 January 1991;[6] and the decision of the Coalition authorities to bomb the Al-Firdus bunker, a structure which proved to be occupied by some 300 women and children, on 13 February 1991.[7] Indulge them. Of course, instructors must take the time to familiarize themselves with the circumstances surrounding each of these cases to ensure that the audience does not inadvertently turn rumor into fact. Similarly, do not hesitate to discuss recent events in Panama, Somalia, Haiti, and now Bosnia. The only real direction needed here is to ensure that the discussion is kept at a very general level.

Having discussed any number of real cases, it is time to transition to more of a lecture format in order to coherently spell out the most fundamental concepts of the law of armed conflict. Keep in mind that this part of the presentation need not be onerous. While the law of war is itself a vast subject, captured in many old treaties consisting of literally thousands

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[5]For a thorough discussion, see Norman Friedman, "The *Vincennes* Incident," U.S. Naval Institute *Proceedings*, May 1989.

[6]See Horace B. Robertson, Jr., "The Obligation to Accept Surrender," *Naval War College Review*, Summer 1993.

[7]See Department of Defense, "The Role of the Law of War," Appendix O in *Conduct of the Persian Gulf War: Final Report to Congress*. (Washington, D.C.: April 1992), O-16.

of individual articles,[8] the instructor is under no compunction to know and brief every provision. Instead, the instructor should stick to topics that every operator absolutely needs to know. To facilitate this assignment, I have provided some very basic questions and answers which should suffice:

Q: Why do we have the law of armed conflict?

A: To prevent unnecessary suffering and destruction.

Q: What is the reason for distinguishing between "Combatants" and "Noncombatants"?

A: *Combatants may be purposely attacked.* They are members of an enemy armed force (except those unable to engage in combat because of wounds, sickness, shipwreck, or capture) or individuals otherwise committing or directly supporting hostile acts. Everyone who is not a combatant is a noncombatant. *Noncombatants may never be purposely attacked.*

Q: When can a target be engaged?

A: Before shooting, the following 2-part test[9] must be met: Does it have military value to the enemy? Will the force used against it cause excessive suffering which outweighs the military advantage to be gained? If the answers to these questions are yes and no, respectively, the target may be engaged.

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[8]For an effective compilation of the most important and relevant law of war provisions, see Michael W. Reisman and Chris T. Antoniou, *The Laws of War: A Comprehensive Collection of Primary Documents on International Law Governing Armed Conflict* (New York: Vintage Books, 1994).

[9]This is the test of **necessity** and **proportionality**, referred to at p.2, supra. A more comprehensive discussion is provided in *The Commander's Handbook on the Law of Naval Operations*, 8-1.

Q: What legal guarantees are provided to Prisoners of War?

A: The law confers special status to POW's involved in international armed conflict. It requires captors to treat prisoners humanely, affording them available medical care and protecting them against torture and shameful public displays. At the end of the war, POW's must be repatriated as soon as circumstances permit.[10]

Q: What is perfidy?

A: Misuse of protective signs, signals, and symbols (such as the white flag or red cross) in order to injure, kill, or capture the enemy.

Q: When does an act of war become a War Crime?

A: War crimes are grave violations of the international law of armed conflict. The principal war crimes are: targeting noncombatants, shooting illegitimate targets, mistreating POW's, and perfidy. Note that treason, sabotage, and espionage are not war crimes, but may be considered crimes under national law.

The preceding questions and answers are obviously not intended to be exhaustive.[11] The point to remember is to stick

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[10]As a matter of policy, the U.S. Government does not consider U.S. personnel captured while participating in Peace Operations, including recent deployments to Panama, Somalia, Haiti, and Bosnia, to be POW's. The reason for this policy is that POW's need not be repatriated until the end of a conflict. To better protect these captured personnel, our government has taken the position that they are unlawful detainees, or in some cases, United Nations "experts on mission," meaning that they must be repatriated immediately. For more on this subject, see Office of the President of the United States, *The Clinton Administration's Policy on Reforming Multilateral Peace Operations* (Washington, D.C.: May 1994).

[11]For a more comprehensive treatment of law of war principles, including the provisions discussed in this paper, consult any of the service manuals cited at fn.4, supra.

to fundamentals. Once this goal has been accomplished, the instructor may want to apply these principles to more real cases - the Holocaust, the Nuremberg trials, Hiroshima, the fire-bombing of Dresden, My Lai, the new Bosnia War Crimes Tribunal - these are just some of the possible topics which come to mind. Presented properly, the law of war can be truly fascinating. By using real events, and by limiting discussion of theory to only those principles which every operator absolutely needs to know, the instructor should have no problem making the law of war interesting to operators.

STEP #3: SEEK TO DE-MYSTIFY RULES OF ENGAGEMENT

At this time, I believe it is a good idea to dive into a discussion of Rules of Engagement (ROE). Anyone who has ever participated in a military action, whether actual combat or an exercise, knows the central importance of ROE to contemporary military operations. Yet few subjects are surrounded by as many mistaken impressions. For instance, many operators wrongly believe that ROE and the law of armed conflict are one and the same. Similarly, an unhealthy percentage of operators have disdain for the concept of ROE because they identify it with meddling, contemptuous lawyers. International law instructors need to set these operators straight. Basic knowledge of ROE - what they are, where they come from, and how they work - is absolutely essential to every operator.

In the most basic sense, *ROE constitute definitive guidance concerning when we can shoot and when we cannot shoot.* They are not a simple regurgitation of the laws of war. Rather, ROE are essentially political guidance.[12] In fact, they serve as the best and most practical means by which our political leaders exert control over military commanders. For anyone familiar with Clausewitz, ROE have paramount importance because they ensure that all our efforts are focused on our ultimate goal - achieving our political objectives.[13]

The idea that ROE are devised and promulgated solely by lawyers is a silly myth. Regrettably, some operators are under the impression that lawyers sit around in executive suites with green leather couches and gold bankers' lamps trying to figure out new ways they can make life more difficult for warfighters. How absurd! First, lawyers are not the parties who are principally responsible for devising and promulgating ROE - this responsibility lies with the National Command Authority, and where delegated, to specified combatant commanders.[14] Second, the main reason lawyers are involved in the ROE process is because they have concise writing skills as a result of their professional training. Considering that ROE tell us when we can

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[12]Guy R. Phillips, "Rules of Engagement: A Primer," *The Army Lawyer*, Department of the Army Pamphlet 27-50-248, July 1993, 5.

[13]Carl von Clausewitz, *On War*. Michael Howard and Peter Paret, eds. (Princeton, NJ: Princeton University Press, 1984), 87.

[14]Phillips, at 6.

shoot and when we cannot shoot, it makes good sense that we want the language used to be pretty concise!

Another mistaken impression surrounding ROE is that they are utterly inflexible. Certainly, in the theoretical world of operational art, ROE may be considered a substantial constraint upon a warfighter's freedom of action.[15] In practice, however, ROE normally permit sufficient leeway to respond to virtually all real and perceived threats. In our military, every version of ROE, no matter what the nature of the operation or the political context, begins with the benchmark that *our forces always maintain the right of self-defense*.[16] If someone is firing at us, we always have the right to fire back. At the same time, however, ROE also try to provide guidance to operators in those complex situations where an adversary might possibly be exhibiting hostile intent. Here, the object is to ensure that our operators do not have to take the first shot before they can respond. ROE are always specially tailored so they are flexible enough to permit operators to recognize when use of force is both appropriate and inappropriate.[17]

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[15]Joint Chiefs of Staff, Joint Pub 3-0, *Doctrine for Joint Operations* (Washington, D.C.: 1 February 1995), III-5.

[16]Phillips, at 22. See also, Harry L. Heintzelman and Edmund S. Bloom, "A Planning Primer: How to Provide Effective Legal Input Into the War Planning and Combat Execution Process," *The Air Force Law Review*, Vol.37, 1994; Joseph P. Nizolak, "ROE Dissemination: A Tough Nut to Crack," *Field Artillery*, April 1992.

[17]Ibid.

Since ROE are not designed for lawyers, but for warfighters, operators need to know that their participation in the drafting process is absolutely imperative. For everyone involved, the goal is consistency and clarity.[18] ROE at the command level must normally anticipate a vast array of potential threats and provide succinct guidance to respond accordingly. In contrast, ROE for a young Marine in the field normally will be so concise that it will fit on a 3 x 5 index card (a satisfactory example is provided at Figure 1). In both cases, the warfighter is the consumer, and thus has the obligation to ensure the guidance is clear enough to be followed. Bad ROE are likely to be extremely costly, in terms of both human lives and political capital. At the same time, operators who are not satisfied with the constraints imposed by the ROE must take care not to shoot the messenger. By this I mean that operators must remember that the constraints imposed come from higher authority, not from the lawyer. In the end, operators may only achieve maximum efficacy if they treat their supporting staffs, including those dreaded lawyers, as team players, and not as the enemy.

STEP #4: PROVIDE A BRIEF OVERVIEW OF THE LAW OF THE SEA, INCLUDING THE FREEDOM OF NAVIGATION PROGRAM

If there is one area of international law that is inherently easy to understand, this is it. In terms of its general application, the law of the sea is simple, straightforward, and

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[18] Ibid., at 25.

empirical. Yet many operators are totally intimidated by this subject. Again the question is, why? In my opinion, because lawyers, as a whole, are not doing a good enough job communicating the basic principles of the law of the sea to operators. Some instructors, it seems, simply cannot resist the temptation to torture their audiences with obscure, treaty minutiae. Entire presentations get swallowed up by topics which are entirely inconsequential to warfighters, such as: semi-circle tests,[19] manganese nodules,[20] and anadromous fish.[21] Unfortunately, this subject has largely become an unintended victim of lawyers not realizing they are only managing to communicate with other lawyers.

To fix this sad state of affairs, instructors need to get back to basics. Discussion regarding the law of the sea should mostly ignore the history of the development of the law, instead concentrating on what our operators are allowed to do, and where. It is enough for the instructor to explain that virtually the

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[19]A complex formula set forth in the *United Nations Convention on the Law of the Sea*, UN Doc. A/Conf. 62/122 (1982) (hereinafter LOS Convention) to determine the extent of a bay which may be considered part of a nation's territorial sea.

[20]A potential commodity abundant throughout the world's deep seabeds. Unresolved issues relating to the harvesting of these nodules has been the principle reason that the U.S. Government has not ratified the LOS Convention. In 1994, however, the world community addressed the outstanding concerns of the U.S., producing the Part XI Implementation Agreement to the Convention. As a result, the U.S. is currently reconsidering its position on ratification. For a more detailed discussion, see *National Security and the Convention on the Law of the Sea*. White Paper: Department of Defense and Department of State (Washington, D.C.: July 1994).

[21]A somewhat obscure term employed in the LOS Convention referring to the very controversial issue of highly migratory fish.

entire world, over 180 nations, generally accepts and abides by the same rules.[22] What are these rules? The most important legal divisions of oceans and airspace include the following designations: territorial seas, contiguous zones, exclusive economic zones, high seas, national airspace, and international airspace (see Figure 2). Reference should also be given to the concepts of international straits, archipelagic waters, and security zones. Throughout this discussion, emphasis must be placed upon what matters most to operators - whether they can fire their guns, fly their planes, conduct ECM, or drop mines.[23]

This part of the presentation should culminate with a review of the one concept arising from the law of the sea which has overriding importance to every operator: freedom of navigation. Every operator knows, or should know, that freedom of navigation and its partner, freedom of overflight, are absolutely critical to our national security.[24] Without these two principles, we might effectively lose our status as a world superpower. In recognition of this rather unsavory prospect, our Departments of Defense and State combined to create the Freedom of Navigation

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[22]Ibid. With few exceptions, almost every country in the world, including the U.S., considers the navigational articles of the LOS Convention to be the definitive statement of the law of the sea, binding upon all nations.

[23]Comprehensive treatment of these issues is contained in *The Commander's Handbook on the Law of Naval Operations*, n.4, supra.

[24]Department of State, *Freedom of Navigation Program* (Washington, D.C.: March 1992).

(FON) Program back in 1979. It is vital that operators know what this very important Program is all about:

> **The FON Program provides our country with a means of challenging claims by the few countries which refuse to adhere to those law of the sea standards which are binding upon all nations.**[25]

If we choose not to challenge such excessive maritime claims, we run the risk of having the claims become accepted as legitimate.[26] In other words, every unchallenged claim might result in the ocean becoming a little bit smaller for our forces. Once again, the instructor might find it best to demonstrate the point by referring to real cases. The most notorious example of this Program in action was our challenge of Libya's infamous "line of death" in the Gulf of Sidra, a brazen attempt to deny the rest of the world access to hundreds of square miles of high seas.[27] Similarly, our attempt to assert our right to innocent passage in Soviet territorial waters resulted in the now legendary Black Sea bumping incident.[28] While some operators may already be familiar with these high visibility cases, it is noteworthy to stress that we have conducted over 200 FON

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[25]See fn.22, supra.

[26]Department of State, at 3.

[27]For a complete discussion, see Dennis R. Neutze, "The Gulf of Sidra Incident: A Legal Perspective," U.S. Naval Institute *Proceedings*, January 1982.

[28]See John W. Rolph, "Freedom of Navigation and the Black Sea Bumping Incident: How 'Innocent' Must Innocent Passage Be?" *Military Law Review*, Vol.135, Winter 1992.

challenges since the inception of the Program. Assuming that freedom of the seas will continue to play a major role in safeguarding our national security, every operator should be informed of the nature and purpose of the FON Program. Only through such education can we ensure that we conduct the Program wisely.

CONCLUSION

At the outset of this paper, I claimed that lack of knowledge of international law amongst our mid-level officers was a serious operational readiness issue. Hopefully, the preceding discussion has shed some light on both why this is so, and what is needed to fix the problem. Quite simply, our operators, some of whom will eventually achieve positions of great influence and importance in our country, need to be able to comprehend and articulate the fundamentals of international law which guide our military at the strategic, operational, and even the tactical levels of war. The point is not that our operators need to think like lawyers. They simply need to grasp the fundamentals. Absent comfort and familiarity with the law of war, rules of engagement, and the law of the sea, our operators are likely to make mistakes which our nation can ill afford. Such mistakes might have the unwelcome consequence of hindering U.S. prestige at home and abroad, and they may very well result in the unnecessary loss of human life.

As with most readiness problems, an effective solution lies in appropriate training. This paper has established a four step method for instructors, whether lawyers or legal officers, to efficiently pass on what our operators need to know about international law. It is my hope, however, that this paper will only serve as a stopgap measure, a wake-up call for the entire U.S. military to reconsider how it instructs the vital subject of international law. The long-term fix almost certainly belongs to the Joint Staff, for they are in the best position to demonstrate the importance and relevance of international law by producing a new, colorful Joint Pub (replete with historical anecdotes) which focuses on those fundamentals of international law that every operator absolutely needs to know.[29] In the end, the old adage remains true that our nation is only as strong as our military, and our military will only be strong if our individual servicemen and servicewomen are entirely committed to integrity, professionalism, and the rule of law.

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[29]In my opinion, a great name for such a new Joint Pub would be: *International Law for Warfighters*.

COMBINED JTF HAITI

RULES OF ENGAGEMENT (ROE) CARD 1

9 September 1994

Nothing in the ROE limits your right to use necessary force to defend yourself, your fellow servicemembers, your unit, other JTF personnel, key facilities, and property designated by your commander.

1. Repel hostile acts with necessary force, including deadly force. Use only the amount of force needed to protect lives/property and accomplish the mission. Engage targets with observed, direct, deliberately-aimed fire.

2. Do not hesitate to respond with force against hostile acts and signs of hostile intent.

3. You may use necessary force to stop, disarm, and detain members of the Haitian military, police, other armed persons, or other persons committing hostile acts or showing hostile intent. Stop and detain other persons who interfere with your mission. Evacuate detainees to a designated location for release to proper authorities. Treat all detainees humanely

4. When a tactical situation permits, you should give a challenge before using deadly force. Challenge by:
   a. Shouting in English: "U.S., STOP OR I WILL FIRE!,"
   b. Shouting in Creole: "U.S., KANPE' OUBIEN MAP TIRE'I,"
      Phonetic: "U.S., kaHnpey oobeeEH(n) mahp tEEreyI"
   c. Fire warning shots into the air.

5. Treat all persons with dignity and respect.

6. Do not take private property without your commander's permission.

7. Remember: No force has been declared hostile, including the Haitian Army and police. Use of deadly force must be based on hostile acts or clear indicators of hostile intent.

FIGURE 1

(SOURCE: Law of Combat Operations Elective, Naval War College)

LEGAL REGIMES OF OCEANS AND AIRSPACE AREAS

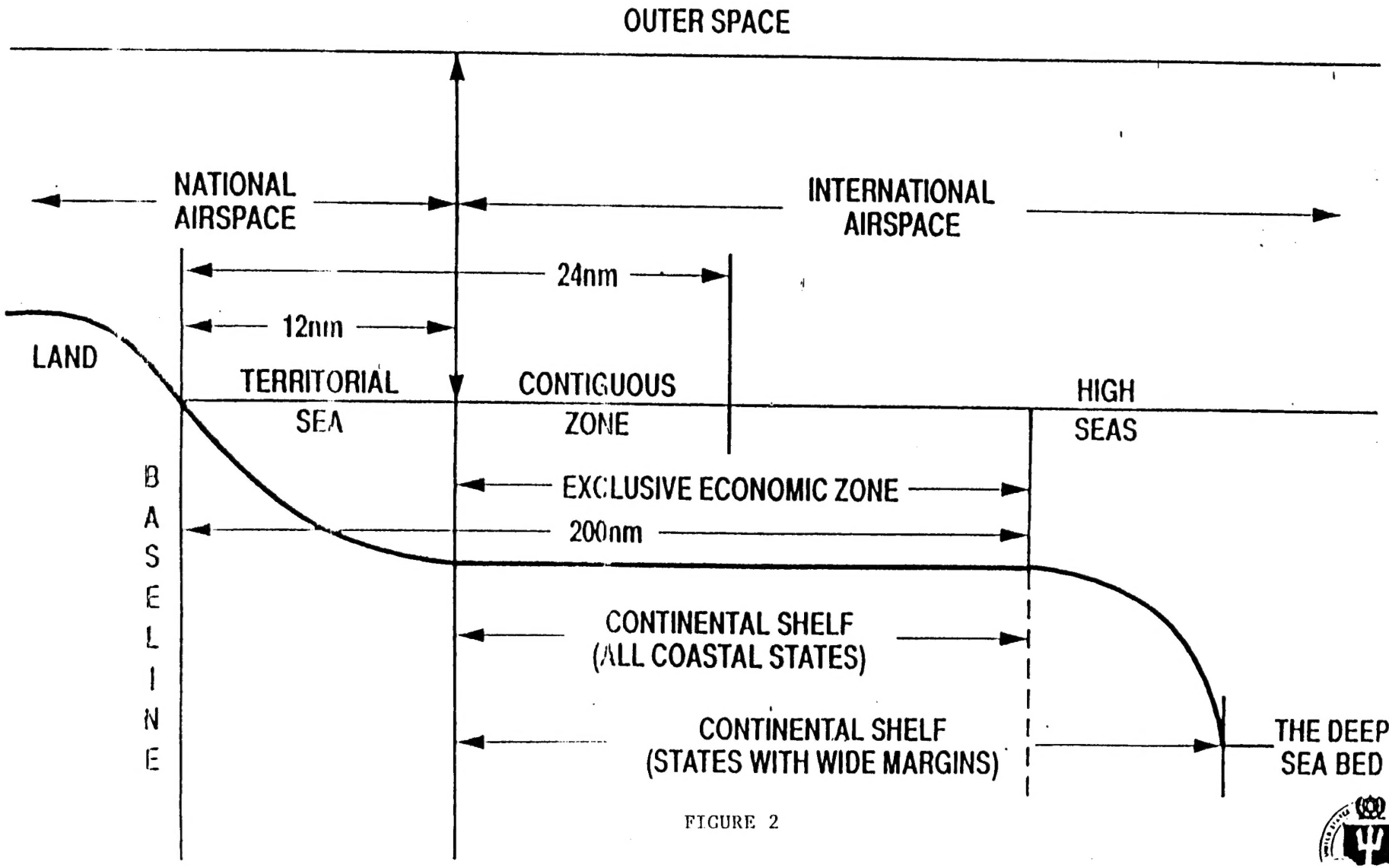

FIGURE 2

(SOURCE: Operations Department, Naval War College)

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